

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on February 2, 2009, the Board issued an order in Docket No. RMU-08-8, In re: Amendments to Extension Rules for Natural Gas and Electric Plant Additions, Gas Distribution Main Extensions, and Electric Line Extensions [199 IAC 19.3(10) and 20.3(13)], “Order Adopting Amendments.” On November 21, 2008, the Board issued an order commencing a rule making to amend the Board’s natural gas pipeline and electric line extension rules. Specifically, the Board proposed to amend 199 IAC 19.3(10)“a,” 19.3(10)“b,” 19.3(10)“c,” 20.3(13)“a,” 20.3(13)“b,” and 20.3(13)“c.”

The proposed amendments were designed to make the extension rules consistent with waivers granted in Docket Nos. WRU-08-31-156 and WRU-08-35-150 to MidAmerican Energy Company (MidAmerican) and Interstate Power and Light Company (IPL), respectively.

The amendments proposed to change the definition of “advance for construction” and eliminate the option that allowed a customer to pay a contribution in aid of construction rather than an advance for construction of natural gas and electric plant additions, gas distribution main extensions, and electric line extensions. The proposed amendments were published in the Iowa Administrative Bulletin in IAB Vol. XXXI, No. 13 (12/17/08) p. 1446, **ARC 7420B**. The order adopting the amendments can be found on the Board’s Web site at <http://www.state.ia.us/iub>.

The Board gave notice of the amendments to Iowa home builders and natural gas and electric utilities. The Board received comments from MidAmerican, the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and IPL. Consumer Advocate stated that it did not object to the proposed amendments, and IPL indicated that it had no comments.

MidAmerican suggested some revisions to the proposed amendments. MidAmerican stated that the proposed amendment to add “plant additions” to the definition of “advance for construction” introduces ambiguity into the definition. MidAmerican pointed out that under paragraphs 19.3(10)“b” and 20.3(13)“b” the utility is required to provide all gas plant or electric plant at utility expense except in those unusual circumstances where extensive plant additions are required before the customer can be served. MidAmerican suggested that adding “plant additions” to the definition of “advance for construction” creates the requirement that any advances paid by a customer would be subject to refund if a service line were attached to the plant addition.

MidAmerican explained that, in its experience, allowing for advances for construction of plant additions has been difficult to implement. Since most plant additions are not subject to having service line attachments, the additions are ineligible for refunds. MidAmerican indicated that a customer required to provide an advance for an extensive plant addition might have an expectation that a refund would occur for any use of the extensive plant addition and not just for service line attachments. MidAmerican suggested that retaining the option of a contribution in aid of construction for an extensive plant addition could reduce customer confusion.

MidAmerican stated that it supports the proposed amendments to remove the option for a customer to pay either an advance for construction or contribution in aid of construction for a gas distribution main extension or an electrical line extension. In addition, MidAmerican suggested that the Board revise subparagraphs 19.3(10)“c”(5) and 20.3(13)“c”(5) by adding “or extensive plant addition” at the end of the first sentence following “distribution main extension” and “electrical line extension,” respectively.

The Board has reviewed MidAmerican’s suggestions and will adopt the revision suggested by MidAmerican to the definition of “advance for construction” in paragraphs 19.3(10)“a” and 20.3(13)“a.” By adding the word “extensive” before “plant addition,” the definition will conform to the plant additions subrule that requires a customer to pay for construction only under unusual circumstances where extensive plant additions are required. The customer will then be eligible for a refund if a service line attaches to the plant additions paid for by the customer. The definition now reads as follows:

“‘Advance for construction,’ as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments, or equivalent surety, shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.”

The Board has not adopted the suggested revision of paragraphs 19.3(10)“b” and 20.3(13)“b” that would have retained the option for a customer to pay a contribution in aid of construction for an extensive plant addition. The Board specifically stated in the Notice of Intended Action that removal of the option was one reason for the proposed amendments, since the calculation of an advance for construction would be the same as a contribution in aid of construction. The Board also specifically stated that customers would be eligible for refunds where the rules allowed, i.e., when a service line is attached.

Retaining the option of a contribution in aid of construction does not appear to resolve the problem of customer confusion as described by MidAmerican. The Board considers it clear in the extension rules that refunds are only made for new service lines that are attached to the extension paid for by the customer. One possible solution to reduce customer confusion would be to only allow contributions in aid of construction for extensive plant additions, thus eliminating all possibility of a refund. The Board is reluctant to make this revision to the proposed amendments in this rule making since there could be situations, however infrequent, in which a service line could be attached to an extensive plant addition and therefore generate a refund. In this rule making, the Board adopts the amendments to paragraphs 19.3(10)“b” and 20.3(13)“b” as proposed. The Board intends to have its staff review the subrules on plant additions to determine if additional changes should be proposed in a later rule making.

In addition, the Board has not adopted the revision proposed by MidAmerican to subparagraphs 19.3(10)“c”(5) and 20.3(13)“c”(5). These subparagraphs are part of subrules for distribution main extensions and electric line extensions, and adding a reference to extensive plant additions appears to be outside the scope of the subrules.

Finally, the Board has not adopted the amendments to subparagraphs 19.3(10)“c”(1) and 20.3(13)“c”(1) proposed in the Notice that added the word “calculation” to the phrase “three times revenue” in the second sentence. Upon review, the addition of the word “calculation” did not provide any improvement to the meaning of the sentence.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.8.

These amendments will become effective on April 1, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [19.3(10), 20.3(13)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7420B**, IAB 12/17/08.

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[For replacement pages for IAC, see IAC Supplement 2/25/09.]